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Attorneys for Plaintiff

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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Brett Fowers, Plaintiff,  v.  Portfolio Recovery Associates, Defendant.	<b>ATTORNEYS' PLANNING MEETING REPORT</b>  Case No. 2:17-cv-01126  District Judge David Nuffer  Magistrate Judge Evelyn J. Furse
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**1. PRELIMINARY MATTERS:**

a. The nature of the claims and affirmative defenses is: Plaintiff alleges that Portfolio Recovery Associates, LLC (“PRA”) violated the Fair Debt Collection Practices Act (“FDCPA”) and Utah Consumer Sales Practices Act (“UCSPA”) by sending Plaintiff a letter to collect on a time-barred debt without disclosing that any payment on the debt may revive the statute of limitations. PRA denies that it has violated the FDCPA or UCSPA. On November 9, 2017, PRA filed a motion to dismiss Plaintiff’s Complaint in its entirety for failure to state a claim upon which relief can be granted.

b. This case is  not referred to a magistrate judge  
 referred to magistrate judge Evelyn J. Furse

X  under 636(b)(1)(A)

X  under 636(b)(1)(B)

assigned to a magistrate judge under General Order 07-001  
and

all parties consent to the assignment for all proceedings or

one or more parties request reassignment to a district judge

c. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on November 21<sup>st</sup> and November 22<sup>nd</sup> through email.

The following attended:

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Attorneys for Defendant

d. The parties do not request an initial pretrial scheduling conference with the court prior to entry of the scheduling order. An initial pretrial scheduling conference is set before Magistrate Judge Evelyn J. Furse on December 13, 2017 @ 10:00 a.m.

e. The parties \_\_\_\_\_ have exchanged or X will exchange by 12/13/2017 the initial disclosures required by Rule 26(a)(1).

f. Pursuant to Fed. R. Civ. P. 5(b)(2)(D), the parties agree to receive all items required to be served under Fed. R. Civ. P. 5(a) by either (i) notice of electronic filing, or (ii) e-mail transmission. Such electronic service will constitute service and notice of entry as required by those rules. Any right to service by USPS mail is waived.

2. **DISCOVERY PLAN:** The parties jointly propose to the court the following discovery plan:

- a. Discovery is necessary on the following subjects:
  - (1) Class Certification
  - (2) Merits of the case
- b. Discovery Phases.

Discovery will not be conducted in phases.
- c. **DISCOVERY**

(1)	Oral Exam Depositions
Plaintiff	10
Defendant	10
Maximum no. hrs. per deposition	7
(2)	Written Discovery
Interrogatories	25
Admissions	25
Requests for production of documents	25
(3)	Other discovery methods: None.
- d. Discovery of electronically stored information should be handled as follows:

At this stage of the litigation, the parties have agreed to produce documents, including email, in a PDF format. Should discovery reveal the importance of the metadata associated with specific email, the parties agree to provide a list of search terms when making discovery requests that may require a search of email or databases.
- e. Last day to file written discovery: 06/07/18
- g. Close of fact discovery: 07/09/18

**3. AMENDMENT OF PLEADINGS AND ADDITION OF PARTIES:**

a. The cutoff dates for filing a motion to amend pleadings are:

Plaintiff: 04/04/18      Defendant: 04/04/18

b. The cutoff dates for filing a motion to join additional parties are:

Plaintiff: 04/04/18      Defendant: 04/04/18

**4. EXPERT REPORTS:**

Reports from experts under Rule 26(a)(2) will be submitted on:

Parties bearing burden of proof: 08/23/18

Response: 10/01/18

**5. OTHER DEADLINES:**

a. Expert Discovery cutoff: 10/15/18

b. Deadline for filing dispositive<sup>1</sup> or potentially dispositive motions including motions to exclude experts where expert testimony is required to prove the case. 11/15/18.

c. Deadline for filing partial or complete motions to exclude expert testimony 12/15/18.

**6. ADR/SETTLEMENT:**

a. The potential for resolution before trial is: Fair

b. This case should be referred to the court's alternative dispute resolution program for arbitration: \_\_\_\_\_ mediation: \_\_\_\_\_

c. The parties intend to engage in private alternative dispute resolution for arbitration: \_\_\_\_\_ mediation: \_\_\_\_\_

d. The parties will re-evaluate the case for settlement/ADR resolution on: 12/15/18.

**7. TRIAL AND PREPARATION FOR TRIAL:**

a. The parties should have 14 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

b. This case should be ready for a bench trial by: 02/15/19

c. The estimated length of the trial is: 4 days

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<sup>1</sup> Dispositive motions, if granted, affect the final resolution of the case; nondispositive motions, if granted, affect the case but do not dispose of it.

**AYRES LAW FIRM**

/s/ Daniel Baczyński  
Daniel M. Baczyński  
Attorneys for Plaintiff

Date: 11/22/2017

**McGUIREWOODS LLP**

Date: 11/22/2017

/s/ Sarah A. Zielinski  
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*Attorneys for Defendant Portfolio Recovery  
Associates, LLC*

**CERTIFICATE OF SERVICE**

I certify that on this 22nd day of November 2017, I caused a true and correct copy of **ATTORNEYS' PLANNING MEETING REPORT** to be served through the Court's E-Filing System as follows:

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/s/ Daniel Baczynski